

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA)		
)		
v.)	CRIMINAL NO. 03-	-A
)		
BENJAMIN JAMES JOHNSON,)		
Defendant.)		

STATEMENT OF FACTS

____Were this matter to go to trial, the United States would prove the following facts with competent evidence.

____1. On April 17, 2003, BENJAMIN JAMES JOHNSON arrived at Dulles International Airport(IAD), located in Dulles, Virginia, in the Eastern District of Virginia, from London-Heathrow Airport in England. JOHNSON was returning from a business trip to Baghdad, Iraq. After arriving at IAD and retrieving his luggage bags from the baggage claim area, JOHNSON entered the Bureau of Customs and Border Protection (BCBP) primary area. While in primary, JOHNSON presented a Custom Declaration form declaring twenty dollars worth of cigarettes. As a result, a BCBP primary inspector referred Johnson to BCBP secondary in order to charge JOHNSON duty for importing cigarettes.

2. A BCBP secondary inspector asked JOHNSON if he wanted to make any changes to his declaration, JOHNSON replied no. The Inspector then asked JOHNSON if he was carrying any gifts or monetary instruments, JOHNSON replied no. The Inspector proceeded to examine JOHNSON'S luggage. While examining JOHNSON'S

bags, the Inspector discovered several identification cards inside one of JOHNSON'S bags, one was an American Embassy Bayan, Kuwait visitor badge (serial number E056). The Inspector asked JOHNSON if he knew that he should have returned the badge back to the American Embassy. JOHNSON replied yes. JOHNSON told the Inspector, that he wanted to keep the visitor's badge as a souvenir.

3. The Inspector continued to examine JOHNSON'S luggage, and discovered two chemical agent protective suits, one gas mask, and several Iraqi monetary bonds.

4. Further examination of JOHNSON'S luggage bags revealed a large cardboard box which contained twelve canvas paintings. JOHNSON initially told the Inspector that some Iraqi citizens approached him in Baghdad and proceeded to hand him the paintings. In response to the Inspector's question, JOHNSON said that he did not pay the Iraqi citizens nor did any Iraqi citizens request payment for the paintings.

5. BCBP immediately notified the Bureau of Immigration and Customs Enforcement (ICE), who responded to BCBP secondary. While in BCBP secondary, ICE agents examined the paintings and questioned JOHNSON about the paintings. JOHNSON again proceeded to tell ICE agents that he received the paintings from Iraqi citizens on the streets of Baghdad.

6. Later, after being advised of his Miranda rights, JOHNSON told the agents that he received the Iraqi bonds as a gift from a military officer. JOHNSON added that while he was in Baghdad,

Iraq accompanying the U.S. military, the military seized a palace. JOHNSON stated that the palace was called the "The New Presidential Palace." JOHNSON believed that the palace was the former residence of Uday Hussein, one of Saddam Hussein's sons. While walking around the area, JOHNSON entered a building, believed to be a ballroom. While inside the ballroom, JOHNSON gathered up approximately four paintings and removed them from the ballroom. Afterwards, JOHNSON entered Uday's palace, where he gathered and removed six paintings from the palace. JOHNSON stated that he later received two additional paintings from a U.S. military soldier.

8. On April 21, 2003, ICE agents contacted the United States Department of Justice, Interpol Cultural Properties Section who advised ICE agents that all property that originated from Iraqi palaces are the property of the government of Iraq.

9. On April 22, 2003, ICE agents contacted the Department of State, Cultural Property Office who advised ICE agents that all properties that originate from Iraqi palaces are the properties of the government of Iraq.

10. The U.S. Treasury Departments Office of Foreign Assets Control (OFAC) administers and enforces a comprehensive economic sanctions program and trade embargo against the Government of Iraq as promulgated in the Iraqi Sanctions Regulations, 31 C.F.R. Part 575, under the authority of the International Emergency Economic Powers Act, 50 U.S.C. 1701-1706, and the United Nations Participation Act, 22 U.S.C. 287c.

11. Section 575.01 of the Regulations prohibits, except as otherwise authorized, U.S. persons from engaging in transactions involving property in which the Government of Iraq has an interest. This prohibition extends to transactions by U.S. persons outside the United States with respect to property in which the U.S. person knows or has reason to know the Government of Iraq has an interest. Iraq government bonds and similar financial obligations are property in which the Government of Iraq has an interest (see sections 575.315, 575.306(a), and 575.301).

12. Section 575.204 of the Regulations prohibits, except as otherwise authorized, the importation into the United States of goods or services of Iraqi origin. U.S. persons may not engage in any activity that promotes or is intended to promote such importation. The Regulations provide no authorization for unlicensed importation into the United States of Iraqi paintings. Such a transaction would be prohibited under Section 575.204 of the Regulations. A review of OFAC's central files from August 1995 to the present disclosed no applications for licenses filed under the name BENJAMIN JAMES JOHNSON. Consequently, OFAC has issued no licenses to BENJAMIN JAMES JOHNSON to deal in or import Iraqi bonds or artwork.

13. The defendant, BENJAMIN JAMES JOHNSON, admits that he knowingly and unlawfully committed the acts described above and not by accident or mistake, or other innocent reason.

Respectfully submitted,

Paul J. McNulty
United States Attorney

By: _____
Dennis M. Kennedy
Assistant United States Attorney

After consulting with my attorney and pursuant to the plea agreement entered into this day between the defendant, BENJAMIN JAMES JOHNSON and the United States, I hereby stipulate that the above Statement of Facts is true and accurate, and that had the matter proceeded to trial, the United States would have proved the same beyond a reasonable doubt.

BENJAMIN JAMES JOHNSON
Defendant

I am BENJAMIN JAMES JOHNSON's attorney. I have carefully reviewed the above Statement of Facts with him. To my knowledge, his decision to stipulate to these facts is an informed and voluntary one.

Christopher Amolsch
Attorney for BENJAMIN JAMES JOHNSON